IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7353 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GRAM PANCHAYAT MORA - Petitioner(s)

Versus

LARSEN TOUBRO LTD & 1 - Respondent(s)

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Appearance :

MR SV PARMAR for Petitioner(s) : 1,
NANAVATI ASSOCIATES for Respondent(s) : 1,
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 14/11/2005

ORAL JUDGMENT

1. In the present petition, the petitioner Mora Gram Panchayat has challenged the order dated 27th July, 1995

passed by the learned 3rd Joint Civil Judge (S.D.), Surat. By the said order the learned Civil Judge (S.D.) allowed an application filed by respondent no.1-Company herein seeking interim injunction against the petitioner collecting octroi from respondent no.1 pursuant to notice dated 29th May, 1995 within the limit of Mora Gram Panchayat.

2. Initially the present petition was disposed of by learned Single Judge by order dated 31/8/1995 on the ground that remedy by way of an appeal from order under Order 43 of the Civil Procedure Code is available. This order was taken in appeal by the petitioner in Letters Patent Appeal No. 849/1995. Letters Patent Appeal came to be disposed of by order dated 12th September, 1995 by which the order of the learned Single Judge was set aside and the petition was sent back to the learned Single Judge for hearing and final disposal. It was further provided that in the mean while the panchayat will be at liberty to take action to comply with the provisions of Gujarat Gram and Nagar Panchayat Taxes Fees Rules, 1964 and recover octroi as imposed by it. In view of that, order of the Trail Court was stayed till final disposal of the Special Civil Application.

3. Learned advocate Shri Amin for Nanavati Associates submitted that pursuant to the said order passed by the Division Bench of the Letters Patent Appeal respondent no.1 paid the octroi to the petitioner till the notification dated 30th January, 1997 was published and octroi was substituted in the area in which respondent no.1 has its factory was declared as a notified area and since then respondent no.1 was required to pay consolidated taxes and not octroi. He further submitted that the Civil Suit filed by respondent no.1 is still pending and all questions including the legality of the action of the petitioner to collect octroi as well as maintainability of a Civil Suit to question such an action can be decided by the Civil Court while disposing of the Civil Suit finally.

4. Considering the fact that the present petition has been filed challenging interim order passed by the learned Civil Judge (S.D.) which order remained stayed pursuant to the directions given by the Division Bench while disposing of the Letters Patent Appeal as noted above and also when the respondent no.1 has paid the octroi till notification declaring the area in question

as part of Hazira notified area, question of interim injunction has lost its significance. The petition, therefore, has become infructuous and the same is disposed of accordingly. The learned Civil Judge would disposed of the Civil Suit without being influenced by this order and in accordance with law. Petition is disposed of accordingly. Rule is discharged with no order as to costs.

(Akil Kureshi, J.)

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